

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LIONEL McCOY MOORE,)	
)	
Plaintiff(s),)	No C 07-0158 VRW (PR)
)	
vs.)	SECOND ORDER OF
)	SERVICE
MIKE EVANS, et al,)	
)	(Doc # 11)
Defendant(s).)	
_____)	

Plaintiff, a prisoner at the Correctional Training Facility in Soledad, California, filed a pro se complaint for damages under 42 USC § 1983 alleging that Salinas Valley State Prison ("SVSP") doctors were deliberately indifferent to his serious medical needs when they failed to provide him with adequate treatment for a severe neck injury for over a month.

Per order filed on June 11, 2007, the court found that plaintiff's allegations appeared to state a cognizable claim for deliberate indifference to serious medical needs under § 1983, when liberally construed, and ordered the United States Marshal to serve SVSP doctors Charles Lee and Andrew Wong.

To date, neither doctor has been served in this action despite their being served in another action before the undersigned. See White v Lee, No. C 07-0638 VRW (PR) (ND Cal filed Jan 25, 2007).


1 declarations, depositions, answers to interrogatories, or authenticated documents,
2 as provided in Rule 56(e), that contradicts the facts shown in the defendant's
3 declarations and documents and show that there is a genuine issue of material
4 fact for trial. If you do not submit your own evidence in opposition, summary
5 judgment, if appropriate, may be entered against you. If summary judgment is
6 granted, your case will be dismissed and there will be no trial. Rand v Rowland,
7 154 F3d 952, 962-63 (9th Cir 1998) (en banc) (App A).

8 Plaintiff is also advised that a motion to dismiss for failure to exhaust
9 administrative remedies under 42 USC § 1997e(a) will, if granted, end your case,
10 albeit without prejudice. You must “develop a record” and present it in your
11 opposition in order to dispute any “factual record” presented by the defendants in
12 their motion to dismiss. Wyatt v Terhune, 315 F3d 1108, 1120 n14 (9th Cir
13 2003).

14 d. Defendants shall file a reply brief within 15 days of the date
15 on which plaintiff serves them with the opposition. The motion shall be deemed
16 submitted as of the date the reply brief is due. No hearing will be held on the
17 motion unless the court so orders at a later date.

18 Plaintiff's recently-filed motion for summary judgment (doc # 11) is
19 DISMISSED as premature. Plaintiff must wait until the defendants are served to
20 move for summary judgment, and must serve all motions and pleadings on
21 defendants, or defendants' counsel once counsel has been designated, by mailing
22 a true copy of the document to defendants or defendants' counsel.

23 SO ORDERED.

24 
25 VAUGHN R WALKER
26 United States District Chief Judge